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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,964	06/20/2003	Albert Seeley	EMPIR-058AUS	6562
22468	7590	12/18/2007	EXAMINER	
CHAPIN & HUANG L.L.C. WESTBOROUGH OFFICE PARK 1700 WEST PARK DRIVE WESTBOROUGH, MA 01581			TRAN, QUOC DUC	
			ART UNIT	PAPER NUMBER
			2614	
			MAIL DATE	DELIVERY MODE
			12/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/600,964	SEELEY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Quoc D. Tran	2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5-17 and 20-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-17 and 20-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Amendment***

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 5-17 and 20-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (2002/0006186) in view of Kuenzig (5,572,570).

Consider claims 1, 16 and 31, Sanders teaches a method, apparatus and computer program medium for generating a test script associated with a virtual telephone caller system used to test a contact center, the method comprising: receiving a test script having one or more test script portions (paragraph 0043 lines 1-10); and associating script parameters at a first time with at least one of the test script and at least one of the test script portions (paragraph 43 lines 11-15), wherein the script parameters are related to a behavior of the test script that allows the test script to provide two or more of a functional test, a load test, and a monitoring test (paragraph 0053).

Sanders did not suggest wherein the load test and monitoring test corresponds to test of the contact center which can be run while the contact center is in operation. However, Kuenzig suggested such (see abstract). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Kuenzig into view of Sanders to ensure the quality and integrity of the system after being placed in service.

Consider claims 2, 17 and 32, Sanders teaches wherein the functional test corresponds to a test of the contact center which can be run at a time corresponding to a time of formation of the contact center or to a time of adding new features to the contact center in order to test the general function of the contact center (paragraph 0053 lines 3-6).

Consider claims 5 and 20, Sanders teaches wherein the first time corresponds to a time after the test script is generated (paragraph 0043).

Consider claims 6-7 and 21-22, paragraphs 0027-0042 read on at least one of the claimed features.

Consider claims 8-15 and 23-30, paragraph 0043 lines 13-15; paragraphs 0027-0042 read on the claimed features.

### ***Response to Arguments***

3. Applicant's arguments filed 10/9/2007 have been fully considered but they are not persuasive.

Regarding applicant argument that Kuenzig fails to suggest or disclose wherein the load test and monitoring test are run while the contact center is in operation. Accordingly, the examiner respectfully disagrees with applicant argument. Kuenzig teaches a method and system for testing the telecommunication system (72) (i.e., contact center). Firstly, Figure 2 and the abstract of Kuenzig suggested that the telecommunication system to be tested connected to the PSTN (56) and further suggested that the system being tested in real-time. Secondly, Kuenzig disclosed on column 1 lines 13-14 that testing of the telecommunication system (72) via the PSTN to evaluate the operation, accuracy and quality of the telecommunication system. By these suggestion, it's implies that the telecommunication system (i.e., contact center) is in service (in

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operation) since the telecommunication system (72) is connected to the PSTN, being tested in real-time and its operation being evaluated. Therefore, Kuenzig clearly suggested that the telecommunication system (i.e., contact center) being tested while it is in service or operation.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any response to this action should be mailed to:

Mail Stop \_\_\_\_ (explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Facsimile responses should be faxed to:

**(571) 273-8300**

Hand-delivered responses should be brought to:

Customer Service Window

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Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Quoc Tran** whose telephone number is **(571) 272-7511**. The examiner can normally be reached on M, T, TH and Friday from 8:00 to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Curtis Kuntz**, can be reached on **(571) 272-7499**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600** whose telephone number is **(571) 272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**QUOC TRAN**  
**PRIMARY EXAMINER**

AU 2614

December 12, 2007